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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/716,231

11/18/2003

Hilmar Meier

35469US1

6748

116 7590 04/24/2007

PEARNE & GORDON LLP

1801 EAST 9TH STREET

SUITE 1200

CLEVELAND, OH 44114-3108

EXAMINER

SWERDLOW, DANIEL

ART UNIT

PAPER NUMBER

2615

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/24/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/716,231

Applicant(s)

MEIER ET AL.

Examiner

Daniel Swerdlow

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-25 is/are allowed.
- 6) ☒ Claim(s) 26 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 23 February 2007 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brillhart et al. (US Patent 5,303,306) in view of Topholm (US Patent 4,947,432).**

4. Regarding Claim 26, Brillhart discloses a hearing aid system (Fig. 1) comprising a hearing device 10 and a remote control 20 that corresponds to the input unit claimed (Fig. 1, reference 24; Fig. 2; column 4, lines 59-63). Therefore, Brillhart anticipates all elements except selection between better understanding and more pleasant hearing. Topholm discloses a programmable hearing aid with selection between music listening (i.e., more pleasant) and in a car (i.e., better understanding) (column 6, lines 24-27). Topholm further discloses this facility as "an essential advantage" (column 6, lines 22-23). It would have been obvious to one skilled in

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the art at the time of the invention to apply selection between better understanding and more pleasant hearing as taught by Topholm to the remote control taught by Brillhart for the purpose of realizing the aforesaid advantages.

5. Regarding Claim 27, Brillhart further discloses transmission by the remote control that corresponds to the input device claimed using infrared radiation (i.e., wirelessly) (Fig. 2, reference 60, 15; column 4, lines 59-63).

Allowable Subject Matter

6. Claims 1 through 25 are allowable.

7. The following is an examiner's statement of reasons for allowance:

8. Regarding Claim 1, Brillhart discloses a hearing aid (Fig. 1, reference 10; Fig. 3) with settings modified (i.e., adapted) for environmental conditions (i.e., a momentary acoustic surround situation) (column 3, lines 38-47) in which: volume settings (i.e., parameters) are changed (i.e., adjusted) (column 9, lines 6-10), these volume settings being part of a parameter set saved in a shift register of the hearing aid (Fig. 3, reference 114; column 7, lines 16-23) and associated with (i.e., belonging to) a sound environmental condition (i.e., identified momentary sound situation) (column 3, lines 38-46). Brillhart further discloses changing the volume settings using a remote control (Fig. 1, reference 20; Fig. 2; column 3, lines 46-47; column 9, lines 6-10) by the patient (i.e., manually adjusting parameters in accordance with the hearing desire of the hearing device user). US Patent 4,425,481 to Mansgold et al. discloses a hearing aid (Fig. 2) that automatically selects the signal process best suited to the particular sound environment (i.e., adjusts parameters in accordance with the momentary acoustic surround situation) (column 2,

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lines 15-18). However, Brillhart discloses only manual volume adjustment of the selected parameter set. As such, the prior art does not disclose manually adjusting parameters other than volume to fine tune the parameter set, as claimed. Therefore, Claim 1 is allowable.

9. Claims 2 through 14 are allowable due to dependence from Claim 1.

10. Claim 15 contains limitations similar to those of Claim 1 and is allowable for the same reasons.

11. Claims 16 through 25 are allowable due to dependence from Claim 15

12. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

13. Applicant's arguments with respect to Claims 1 through 25, filed with the response of 23 February 2007 in conjunction with the amendments therein have been fully considered and are persuasive. As such, these claims are allowable.

14. Applicant's arguments with respect to Claims 26 and 27 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Swerdlow whose telephone number is 571-272-7531. The examiner can normally be reached on Monday through Friday between 7:30 AM and 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh H. Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Daniel Swerdlow
Primary Examiner
Art Unit 2615

ds
20 April 2007